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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ELIZABETH WATERMAN

Plaintiff,

v.

TIKTOK, INC.,

Defendant.

Case No. 2:24-CV-04802-AB-AJR

**DEFENDANT'S ANSWER TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT**

Defendant TikTok, Inc. ("TTI" or "Defendant") hereby answers the First Amended Complaint filed by Plaintiff Elizabeth Waterman ("Plaintiff") as follows. All allegations not specifically admitted herein are denied.

THE PARTIES

1. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 1 and denies them on that basis.

2. Defendant admits that it is a California corporation with its principal place of business in Culver City, California, and that its agent for service of process is 1505 Corporation CSC – Lawyers Incorporating Service.

JURISDICTION AND VENUE

3. Defendant admits the Court has subject matter jurisdiction over this matter.

4. To the extent the allegations of Paragraph 4 consist of legal arguments or conclusions, they require no answer. To the extent an answer is required, Defendant does not contest that it is subject to the personal jurisdiction of this Court in this matter.

5. To the extent the allegations of Paragraph 5 consist of legal arguments or conclusions, they require no answer. To the extent an answer is required, Defendant does not contest that venue in this District is proper in this matter.

FACTS

I. PLAINTIFF'S BUSINESS

6. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 6 and on that basis denies them.

7. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 7 and on that basis denies them.

8. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 8 and on that basis denies them.

9. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 9 and on that basis denies them.

10. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 10 and on that basis denies them.

II. THE WORK AT ISSUE IN THIS LAWSUIT

The First Photograph

11. Defendant lacks sufficient knowledge or information to form a belief as

1 to the truth of the allegations in Paragraph 11 and on that basis denies them.

2 12. Defendant admits that the United States Copyright Office issued the
3 stated copyright registration. Except as otherwise admitted, Defendant lacks
4 sufficient knowledge or information to form a belief as to the truth of the allegations
5 in Paragraph 12 and on that basis denies them.

6 ***The Second Photograph***

7 13. Defendant lacks sufficient knowledge or information to form a belief as
8 to the truth of the allegations in Paragraph 13 and on that basis denies them.

9 14. Defendant admits that the United States Copyright Office issued the
10 stated copyright registration. Except as otherwise admitted, Defendant lacks
11 sufficient knowledge or information to form a belief as to the truth of the allegations
12 in Paragraph 12 and on that basis denies them.

13 15. Defendant admits that Plaintiff's collectively refers to the First
14 Photograph and Second Photograph as the "Work."

15 16. The allegations of Paragraph 16 consist of legal arguments or
16 conclusions and no answer is required. To the extent an answer is required,
17 Defendant lacks sufficient knowledge or information to form a belief as to the truth
18 of the allegations in Paragraph 16 and on that basis denies them.

19 **III. DEFENDANT'S UNLAWFUL ACTIVITIES**

20 17. Defendant admits it offers video hosting services. Except as otherwise
21 admitted, Defendant denies the allegations of Paragraph 17.

22 18. To the extent the allegations of Paragraph 16 consist of legal arguments
23 or conclusions, no answer is required. To the extent an answer is required, Defendant
24 admits that TikTok is available through an app and a website.

25 19. To the extent the allegations of Paragraph 16 consist of legal arguments
26 or conclusions, no answer is required. To the extent an answer is required, Defendant
27 admits that the users shown in Exhibit C posted the content shown therein. Defendant
28

1 lacks sufficient knowledge or information to form a belief as to the truth of the
2 remaining allegations in Paragraph 19 and on that basis denies them.

3 20. Defendant admits that the screenshots in Exhibit C appear to be of user
4 posts and/or profiles from the TikTok website. Except as otherwise admitted,
5 Defendant lacks sufficient knowledge or information to form a belief as to the truth
6 of the allegations in Paragraph 20 and on that basis denies them.

7 21. The allegations of Paragraph 21 consist of legal arguments or
8 conclusions and no answer is required. To the extent an answer is required,
9 Defendant admits that Plaintiff sent takedown notices. Defendant lacks sufficient
10 knowledge or information to form a belief as to the truth of the remaining allegations
11 in Paragraph 21 and on that basis denies them.

12 22. The allegations of Paragraph 22 consist of legal arguments or
13 conclusions and no answer is required. To the extent an answer is required,
14 Defendant denies the allegations of Paragraph 22.

15 23. The allegations of Paragraph 23 consist of legal arguments or
16 conclusions and no answer is required. To the extent an answer is required,
17 Defendant denies the allegations of Paragraph 23.

18 **COUNT I – VICARIOUS COPYRIGHT INFRINGEMENT**

19 24. Defendant incorporates and realleges each of its responses to the
20 preceding paragraphs as if fully set forth herein.

21 25. The allegations of Paragraph 25 consist of legal arguments or
22 conclusions and no answer is required. To the extent an answer is required,
23 Defendant lacks sufficient knowledge or information to form a belief as to the truth
24 of the allegations in Paragraph 25 and on that basis denies them.

25 26. The allegations of Paragraph 26 consist of legal arguments or
26 conclusions and no answer is required. To the extent an answer is required,
27 Defendant lacks sufficient knowledge or information to form a belief as to the truth
28 of the allegations in Paragraph 26 and on that basis denies them.

1 27. The allegations of Paragraph 27 consist of legal arguments or
2 conclusions and no answer is required. To the extent an answer is required,
3 Defendant admits that user post shown in Exhibit C are publicly available. Defendant
4 lacks sufficient knowledge or information to form a belief as to the truth of the
5 allegations in Paragraph 27 and on that basis denies them.

6 28. The allegations of Paragraph 28 consist of legal arguments or
7 conclusions and no answer is required. To the extent an answer is required,
8 Defendant lacks sufficient knowledge or information to form a belief as to the truth
9 of the allegations in Paragraph 28 and on that basis denies them.

10 29. The allegations of Paragraph 29 consist of legal arguments or
11 conclusions and no answer is required. To the extent an answer is required,
12 Defendant denies the allegations in Paragraph 29.

13 30. The allegations of Paragraph 30 consist of legal arguments or
14 conclusions and no answer is required. To the extent an answer is required,
15 Defendant denies the allegations in Paragraph 30.

16 31. The allegations of Paragraph 31 consist of legal arguments or
17 conclusions and no answer is required. To the extent an answer is required,
18 Defendant admits it received copyright takedown notices from Plaintiff. Defendant
19 lacks sufficient knowledge or information to form a belief as to the truth of the
20 remaining allegations in Paragraph 31 and on that basis denies them.

21 32. The allegations of Paragraph 32 consist of legal arguments or
22 conclusions and no answer is required. To the extent an answer is required,
23 Defendant lacks sufficient knowledge or information to form a belief as to the truth
24 of the allegations in Paragraph 32 and on that basis denies them.

25 33. The allegations of Paragraph 33 consist of legal arguments or
26 conclusions and no answer is required. To the extent an answer is required,
27 Defendant admits that the policies referenced in Paragraph 33 are published on
28

1 Defendant's website and that the polices speak for themselves. Defendant denies any
2 remaining allegations in Paragraph 33.

3 34. To the extent the allegations of Paragraph 34 consist of legal arguments
4 or conclusions, no answer is required. To the extent an answer is required, Defendant
5 admits it provides different ways to report infringement and provides instructions for
6 doing so.

7 35. The allegations of Paragraph 35 consist of legal arguments or
8 conclusions and no answer is required. To the extent an answer is required,
9 Defendant admits users can make purchases through TikTok Shop. Defendant denies
10 the remaining allegations in Paragraph 35.

11 36. The allegations of Paragraph 36 consist of legal arguments or
12 conclusions and no answer is required. To the extent an answer is required,
13 Defendant admits it uses a copyright notification "© 2024 TikTok" on its website.
14 Defendant denies the remaining allegations in Paragraph 36.

15 37. The allegations of Paragraph 37 consist of legal arguments or
16 conclusions and no answer is required. To the extent an answer is required,
17 Defendant admits it has an agent to accept notifications under the DMCA. Defendant
18 denies the remaining allegations in Paragraph 37.

19 38. The allegations of Paragraph 38 consist of legal arguments or
20 conclusions and no answer is required. To the extent an answer is required,
21 Defendant denies the allegations in Paragraph 38.

22 39. The allegations of Paragraph 39 consist of legal arguments or
23 conclusions and no answer is required. To the extent an answer is required,
24 Defendant denies the allegations in Paragraph 39.

25 40. The allegations of Paragraph 40 consist of legal arguments or
26 conclusions and no answer is required. To the extent an answer is required,
27 Defendant denies the allegations in Paragraph 40.
28

1 41. The allegations of Paragraph 41 consist of legal arguments or
2 conclusions and no answer is required. To the extent an answer is required,
3 Defendant denies the allegations in Paragraph 41.

4 42. The allegations of Paragraph 42 consist of legal arguments or
5 conclusions and no answer is required. To the extent an answer is required,
6 Defendant denies the allegations in Paragraph 42.

7 Defendant denies that Plaintiff is entitled to any of the requested relief, or to
8 any other relief.

9 a. Plaintiff's prayer for relief does not require an answer.

10 b. Plaintiff's prayer for relief does not require an answer.

11 c. Plaintiff's prayer for relief does not require an answer.

12 d. Plaintiff's prayer for relief does not require an answer.

13 e. Plaintiff's prayer for relief does not require an answer.

14 f. Plaintiff's prayer for relief does not require an answer.

15 g. Plaintiff's prayer for relief does not require an answer.

16 **COUNT II – CONTRIBUTORY COPYRIGHT INFRINGEMENT**

17 43. Defendant incorporates and realleges each of its responses to the
18 preceding paragraphs as if fully set forth herein.

19 44. The allegations of Paragraph 44 consist of legal arguments or
20 conclusions and no answer is required. To the extent an answer is required,
21 Defendant lacks sufficient knowledge or information to form a belief as to the truth
22 of the allegations in Paragraph 44 and on that basis denies them.

23 45. The allegations of Paragraph 45 consist of legal arguments or
24 conclusions and no answer is required. To the extent an answer is required,
25 Defendant lacks sufficient knowledge or information to form a belief as to the truth
26 of the allegations in Paragraph 45 and on that basis denies them.

27 46. The allegations of Paragraph 46 consist of legal arguments or
28 conclusions and no answer is required. To the extent an answer is required,

1 Defendant lacks sufficient knowledge or information to form a belief as to the truth
2 of the allegations in Paragraph 46 and on that basis denies them.

3 47. The allegations of Paragraph 47 consist of legal arguments or
4 conclusions and no answer is required. To the extent an answer is required,
5 Defendant lacks sufficient knowledge or information to form a belief as to the truth
6 of the allegations in Paragraph 47 and on that basis denies them.

7 48. The allegations of Paragraph 48 consist of legal arguments or
8 conclusions and no answer is required. To the extent an answer is required,
9 Defendant denies the allegations in Paragraph 48.

10 49. The allegations of Paragraph 49 consist of legal arguments or
11 conclusions and no answer is required. To the extent an answer is required,
12 Defendant denies the allegations in Paragraph 49.

13 50. The allegations of Paragraph 50 consist of legal arguments or
14 conclusions and no answer is required. To the extent an answer is required,
15 Defendant admits it received copyright takedown notices from Plaintiff. Defendant
16 lacks sufficient knowledge or information to form a belief as to the truth of the
17 remaining allegations in Paragraph 50 and on that basis denies them.

18 51. The allegations of Paragraph 51 consist of legal arguments or
19 conclusions and no answer is required. To the extent an answer is required,
20 Defendant admits it received copyright takedown notices from Plaintiff. Defendant
21 lacks sufficient knowledge or information to form a belief as to the truth of the
22 remaining allegations in Paragraph 51 and on that basis denies them.

23 52. The allegations of Paragraph 52 consist of legal arguments or
24 conclusions and no answer is required. To the extent an answer is required,
25 Defendant denies the allegations in Paragraph 52.

26 53. The allegations of Paragraph 53 consist of legal arguments or
27 conclusions and no answer is required. To the extent an answer is required,
28 Defendant admits it received copyright takedown notices from Plaintiff. Defendant

1 lacks sufficient knowledge or information to form a belief as to the truth of the
2 remaining allegations in Paragraph 53 and on that basis denies them.

3 54. Defendant admits that it is a U.S. corporation and that it has in-house
4 legal staff. Except as otherwise admitted, Defendant denies the remaining allegations
5 in Paragraph 54.

6 55. The allegations of Paragraph 55 consist of legal arguments or
7 conclusions and no answer is required. To the extent an answer is required,
8 Defendant admits it uses a copyright notification “© 2024 TikTok” on its website.
9 Defendant denies the remaining allegations in Paragraph 55.

10 56. The allegations of Paragraph 56 consist of legal arguments or
11 conclusions and no answer is required. To the extent an answer is required,
12 Defendant admits it has an agent to accept notifications under the DMCA. Defendant
13 denies the remaining allegations in Paragraph 56.

14 57. The allegations of Paragraph 57 consist of legal arguments or
15 conclusions and no answer is required. To the extent an answer is required,
16 Defendant denies the allegations in Paragraph 57.

17 58. The allegations of Paragraph 58 consist of legal arguments or
18 conclusions and no answer is required. To the extent an answer is required,
19 Defendant denies the allegations in Paragraph 58.

20 59. The allegations of Paragraph 59 consist of legal arguments or
21 conclusions and no answer is required. To the extent an answer is required,
22 Defendant denies the allegations in Paragraph 59.

23 60. The allegations of Paragraph 60 consist of legal arguments or
24 conclusions and no answer is required. To the extent an answer is required,
25 Defendant denies the allegations in Paragraph 60.

26 61. The allegations of Paragraph 61 consist of legal arguments or
27 conclusions and no answer is required. To the extent an answer is required,
28 Defendant denies the allegations in Paragraph 61.

1 Defendant denies that Plaintiff is entitled to any of the requested relief, or to
2 any other relief.

3 a. Plaintiff's prayer for relief does not require an answer.

4 b. Plaintiff's prayer for relief does not require an answer.

5 c. Plaintiff's prayer for relief does not require an answer.

6 d. Plaintiff's prayer for relief does not require an answer.

7 e. Plaintiff's prayer for relief does not require an answer.

8 f. Plaintiff's prayer for relief does not require an answer.

9 g. Plaintiff's prayer for relief does not require an answer.

10 **AFFIRMATIVE DEFENSES**

11 Defendant asserts the following defenses in response to Plaintiff's First
12 Amended Complaint. Defendant reserves the right to amend this Answer to assert
13 any additional defenses that may be discovered during the course of this litigation.

14 **a. First Affirmative Defense**

15 The First Amended Complaint and its causes of action fail to state a claim upon
16 which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6).

17 **b. Second Affirmative Defense**

18 Plaintiff's claims are barred, in whole or in part, to the extent Plaintiff has not
19 demonstrated that she owns registered copyrights covering the Work or that the
20 copyrights are valid.

21 **c. Third Affirmative Defense**

22 Plaintiff's claims are barred, in whole or in part, because the Work are not
23 protectable under copyright law.

24 **d. Fourth Affirmative Defense**

25 Plaintiff's claims are barred, in whole or in part, because the Work are not
26 sufficiently original.

e. Fifth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because any alleged infringement by Defendant or Defendant's users constitutes fair use under 17 U.S.C. § 107.

f. Sixth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because Defendant is protected by one or more of the safe harbor provisions of the DMCA under 17 U.S.C. § 512.

g. Seventh Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because one or more third parties are liable for the conduct alleged in the First Amended Complaint.

h. Eighth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because any damage that Plaintiff allegedly sustained was not legally or proximately caused by Defendant.

i. Ninth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because Plaintiff has not suffered any damages that are caused by, or attributable to, the alleged infringement.

j. Tenth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because Defendant did not materially contribute to or induce the alleged copyright infringement.

k. Eleventh Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because Defendant did not and does not have a direct financial interest in or to the alleged copyright infringement.

l. Twelfth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because any infringement or violation occurred with innocent intent.

m. Thirteenth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, to the extent any third-party use of the subject photographs was pursuant to a valid license, whether an implied or express license.

n. Fourteenth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, as moot to the extent a settlement has been reached with the third parties alleged to infringe the Work.

o. Fifteenth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, to the extent Plaintiff has already recovered damages or other relief from the third parties whose alleged conduct forms the basis of Plaintiff's allegations against Defendant.

p. Sixteenth Affirmative Defense

To the extent Plaintiff seeks injunctive relief, such relief is barred because the injury, harm, or damage allegedly suffered by Plaintiff is adequately compensated in an action for monetary damages.

q. Seventeenth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, by equitable defenses of estoppel, waiver, and/or laches.

PRAYER FOR RELIEF

Wherefore Defendant TikTok, Inc. prays for relief as follows.

A. Entry of judgment in favor of Defendant denying all of Plaintiff's claims and requested relief;

B. Entry of judgment in favor of Defendant dismissing Plaintiff's First Amended Complaint with prejudice;

C. That the Court award Defendant its cost of suit including reasonable attorneys' fees pursuant to 17 U.S.C. § 505; and

D. That the Court award Defendant any and all other and further relief as the Court deems just and proper.

1 Dated: December 18, 2024

DORSEY & WHITNEY LLP

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24 *Attorneys for Defendant TikTok, Inc.*
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CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2024, a true and correct copy of the foregoing was filed electronically using the Court's CM/ECF system, which shall send notification of such filing to all counsel of record. Any counsel of record who has not consented to electronic service through the Court's CM/ECF system will be served by electronic mail.

/s/ J. Michael Keyes
J. Michael Keyes, SBN 262281